

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAZZLE SOFTWARE II, LLC, et al.,

Plaintiffs,

Case No. 16-cv-12191  
Hon. Matthew F. Leitman

v.

JOHN KINNEY, et al.,

Defendants.

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**ORDER TO ATTEND SCHEDULING CONFERENCE AND NOTICE OF REQUIREMENTS FOR SUBMISSION OF DISCOVERY PLAN**

The parties are hereby directed to appear for a Case Management and Scheduling Conference (the “Conference”) on **Monday, September 26, 2016, at 3:00 p.m.** in the chambers of Judge Matthew F. Leitman, 231 West Lafayette Blvd., Room 1013, Theodore Levin U.S. Courthouse, Detroit, Michigan.

The purpose of this Conference is to make the Court aware of the issues involved, to discuss the possibility of settlement, and to establish appropriate case management dates. Prior to the Conference, counsel shall meet and confer in order to prepare a Joint Case Management Report/Discovery Plan (the “Plan”) in accordance with Federal Rule of Civil Procedure 26(f). The Plan shall follow the format and address the Agenda Items listed below. The Plan must be filed with the Court no later than **five (5) business days** before the Conference. If any party is proceeding without counsel, separate Plans may be filed. Following the

Conference, the Court will enter its own Case Management and Scheduling Order.

The following Agenda Items are to be individually addressed in the written Plan under separate headings:

1. **Related Cases:** Identify any pending related cases or previously adjudicated related cases.
2. **Jurisdiction:** Explain the basis of the Court's subject-matter jurisdiction over the Plaintiff's claims and Defendant's counter-claims. Plaintiff should also identify any pendent state law claims. If any Defendants remain unserved, explain the plan to complete service.
3. **Factual Summary:** Provide a brief description of the nature of the action and a brief summary of Plaintiff's claims and Defendant's defenses. Identify the core, dispositive factual issues.
4. **Legal Issues:** Identify the legal issues genuinely in dispute. Also identify any dispositive or partially dispositive issues appropriate for decision by motion.
5. **Amendment of Pleadings:** Identify any anticipated amendments of pleadings to add or delete claims, defenses, or parties.
6. **Discovery:** (a) Summarize the discovery each party intends to pursue, including expert witnesses, the reasonable time needed for completion, and any anticipated disputes; (b) Explain the arrangements for exchanging initial disclosures required by Fed. R. Civ. 26(a)(1); (c) Indicate whether any changes should be made in the limitations on discovery imposed by the Federal and Local Rules; and (d) address whether there is a need to enter a protective order or a confidentiality order pursuant to Federal Rule of Evidence 502(d). Counsel are instructed to commence discovery following the meet and confer.

7. **Electronic Discovery:** Explain the parties' plan for dealing with electronic discovery and whether implementation of this District's Model Order Relating to the Discovery of Electronically Stored Information is warranted. The parties are also encouraged to consult this District's Checklist for Rule 26(f) Meet and Confer Regarding Electronically Stored Information, attached to the Model Order linked to above. At the very least, the parties should discuss and address (a) the ESI to be preserved; (b) the form in which any ESI will be produced (i.e., native format, PDF, paper, etc.); (c) whether to limit discovery of ESI to particular sources or custodians, at least as an initial matter; and (d) search terms or methods to be used to identify responsive materials.

8. **Settlement:** Explain the prospects for settlement and whether the parties are interested in Case Evaluation (see Local Rule 16.3) or other methods of alternate dispute resolution. Identify the discovery that would be most helpful in evaluating likelihood of settlement.

9. **Consent:** Indicate whether the parties consent to the jurisdiction of a United States Magistrate Judge to conduct all proceedings in this civil action (including a jury or non-jury trial) and to order the entry of a final judgment, as provided in 28 U.S.C. § 636(c) and Federal Rule of Civil Procedure 73.

10. **Trial:** Identify whether this will be a jury or bench trial and the estimated length of trial. Also identify when each side can be ready for trial.

11. **Miscellaneous:** Identify any other matters any party wishes to address at the Scheduling Conference.

In the event that the parties cannot reach an agreement on any provision of the Plan, the parties shall include in the relevant provision of the Plan a brief statement containing each of the parties' respective positions.

Counsel should appear at the scheduling conference and be prepared to address these Agenda Items. For good cause, however, the Court will consider conducting the Conference by telephone. Requests for a telephonic conference are to be directed to the Case Manager.

**IT IS SO ORDERED.**

s/Matthew F. Leitman  
MATTHEW F. LEITMAN  
UNITED STATES DISTRICT JUDGE

Dated: August 22, 2016

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 22, 2016, by electronic means and/or ordinary mail.

s/Holly A. Monda  
Case Manager  
(313) 234-5113